

1 ELIZABETH J. FOLEY
2 NEVADA BAR 1509
3 ELIZABETH J. FOLEY LAWYER, LTD.
4 601 So. Rancho Drive, Suite A-1
5 Las Vegas, Nevada 89106
Phone: (702) 363-2323
Fax: (702)380-4035
Email: Efoleylawyer@gmail.com
Attorney for Plaintiffs

6 UNITED STATES DISTRICT COURT

7 DISTRICT OF NEVADA

8 JAMES RUHLMANN and ERIC SAMBOLD,

9 Plaintiffs,

10 v.

11 GLENN RUDOLFSKY, individually and
12 KIM D. RUDOLFSKY, individually; and
13 HOUSE OF DREAMS KAUAI, INC.,
a New York Domestic Business Corporation

14 CASE NO.: 2:14-cv-00879-RFB-NJK

15 **PROTECTIVE ORDER**

16 Defendants.

17 Pursuant to this Court's Order dated November 17, 2016, that the parties formulate a
18 stipulated Protective Order and file the Order by November 23, 2016, Counsel for the Plaintiffs
19 respectfully submit the following Order. A copy of this Proposed Order has been submitted to
20 Counsel for the Defendants, first on November 22, 2016, and again on November 23, 2016. Defense
21 counsel indicated that there was no objection as to the content of this Order, but defense counsel was
22 not authorized to sign due to the pending objection.

23 1. As used in the Protective Order, these terms have the following meanings:

24 "Attorneys" means counsel of record;

25 "Confidential" documents are documents designated pursuant to paragraph 2;

26 "Confidential - Attorneys' Eyes Only" documents are the subset of Confidential documents
27 designated pursuant to paragraph 5;

28 "Documents" are all materials within the scope of Fed. R. Civ. P. 34;

ELIZABETH J. FOLEY
LAWYER, LTD.
601 S. Rancho Drive, Suite A-1
Quail Park II
Las Vegas Nevada 89106
Phone: (702) 363-2323 • Fax: (702) 380-4035

1 “Written Assurance” means an executed document in the form attached as Exhibit A.

2 2. By identifying a document “Confidential”, a party may designate any document, including
3 interrogatory responses, other discovery responses, or transcripts, that it in good faith contends to
4 constitute or contain confidential information.

5 3. All Confidential documents, along with the information contained in the documents, shall
6 be used solely for the purpose of this action, and no person receiving such documents shall, directly
7 or indirectly, transfer, disclose, or communicate in any way the contents of the documents to any
8 person other than those specified in paragraph 4. Prohibited purposes include, but are not limited
9 to, use for competitive purposes or the prosecution of additional intellectual property rights.

10 4. Access to any Confidential document shall be limited to:

11 (a) the Court and its officers;
12 (b) Attorneys and their office associates, legal assistants, and stenographic and clerical
13 employees;
14 (c) persons shown on the face of the document to have authored or received it;
15 (d) court reporters retained to transcribe testimony;
16 (e) Mr. Ruhlmann’s private counsel, John Henry Brebbia;
17 (f) outside independent persons (i.e., persons not currently or formerly employed by,
18 consulting with, or otherwise associated with any party) who are retained by a party
19 or its attorneys to furnish technical or expert services, or to provide assistance as
20 mock jurors or focus group members or the like, and/or to give testimony in this
21 action.

22 5. The parties shall have the right to further designate Confidential documents or portions of
23 documents as “Confidential - Attorneys’ Eyes Only”. Disclosure of such information shall be
24 limited to the persons designated in paragraphs 4(a), (b), (c), (d), (e), and (f).

25 6. Third parties producing documents in the course of this action may also designate
26 documents as “Confidential” or “Confidential - Attorneys’ Eyes Only”, subject to the same
27 protections and constraints as the parties to the action. A copy of the Protective Order shall be

1 served along with any subpoena served in connection with this action. All documents produced by
2 such third parties shall be treated as "Confidential - Attorneys' Eyes Only" for a period of 14 days
3 from the date of their production, and during that period any party may designate such documents
4 as "Confidential" or "Confidential - Attorneys' Eyes Only" pursuant to the terms of the Protective
5 Order.

6 7. Each person appropriately designated pursuant to paragraph 4(f) to receive Confidential
7 information shall execute a "Written Assurance" in the form attached as Exhibit A. Opposing
8 counsel shall be notified at least 14 days prior to disclosure to any such employee or agent of, or
9 consultant to, any competitor of the party whose designated documents are sought to be disclosed.
10 Such notice shall provide a reasonable description of the outside independent person to whom
11 disclosure is sought sufficient to permit objection to be made. If a party objects in writing to such
12 disclosure within 14 days after receipt of notice, no disclosure shall be made until the party seeking
13 disclosure obtains the prior approval of the Court or the objecting party.

14 8. Any party who inadvertently fails to identify documents as "Confidential" or "Confidential -
15 Attorneys' Eyes Only" shall have 14 days from the discovery of its oversight to correct its failure.
16 Such failure shall be corrected by providing written notice of the error and substituted copies of the
17 inadvertently produced documents. Any party receiving such inadvertently unmarked documents
18 shall make reasonable efforts to retrieve documents distributed to persons not entitled to receive
19 documents with the corrected designation.

20 9. Any party who inadvertently discloses documents that are privileged or otherwise immune
21 from discovery shall, promptly upon discovery of such inadvertent disclosure, so advise the receiving
22 party and request that the documents be returned. The receiving party shall return such inadvertently
23 produced documents, including all copies, within 14 days of receiving such a written request. The
24 party returning such inadvertently produced documents may thereafter seek re-production of any
25 such documents pursuant to applicable law.

26 10. If a party files a document containing Confidential information with the Court, it shall do
27 so in compliance with the Electronic Case Filing Procedures for the District of Nevada. Prior to
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1 disclosure at trial or a hearing of materials or information designated "Confidential" or "Confidential
2 - Attorneys' Eyes Only", the parties may seek further protections against public disclosure from the
3 Court.

4 11. Any party may request a change in the designation of any information designated
5 "Confidential" and/or "Confidential - Attorneys' Eyes Only". Any such document shall be treated
6 as designated until the change is completed. If the requested change in designation is not agreed to,
7 the party seeking the change may move the Court for appropriate relief, providing notice to any third
8 party whose designation of produced documents as "Confidential" and/or "Confidential - Attorneys'
9 Eyes Only" in the action may be affected. The party asserting that the material is Confidential shall
10 have the burden of proving that the information in question is within the scope of protection afforded
11 by Fed. R. Civ. P. 26(c).

12 12. Within 60 days of the termination of this action, including any appeals, each party shall
13 either destroy or return to the opposing party all documents designated by the opposing party as
14 "Confidential", and all copies of such documents, and shall destroy all extracts and/or data taken
15 from such documents. Each party shall provide a certification as to such return or destruction as
16 within the 60-day period. Attorneys shall be entitled to retain, however, a set of all documents filed
17 with the Court and all correspondence generated in connection with the action.

18 13. Any party may apply to the Court for a modification of the Protective Order, and nothing
19 in the Protective Order shall be construed to prevent a party from seeking such further provisions
20 enhancing or limiting confidentiality as may be appropriate.

21 14. No action taken in accordance with the Protective Order shall be construed as a waiver of
22 any claim or defense in the action or of any position as to discoverability or admissibility of
23 evidence.

24 15. The obligations imposed by the Protective Order shall survive the termination of this action.
25 Within 60 days following the expiration of the last period for appeal from any order issued in
26 connection with this action, the parties shall remove any materials designated "confidential" from
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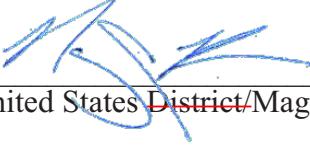
1 the office of the Clerk of Court. Following that 60-day period, the Clerk of Court shall destroy all
2 "Confidential" materials.

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4 IT IS SO ORDERED.

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6 DATED: November 28, 2016

7 
United States ~~District~~/Magistrate Judge

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9 Prepared by:
10 ELIZABETH J. FOLEY
11 NEVADA BAR 1509
12 ELIZABETH J. FOLEY LAWYER, LTD.
13 601 So. Rancho Drive, Suite A-1
14 Las Vegas, Nevada 89106
15 Attorney for Plaintiffs

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